



## WELFARE REFORM COMMITTEE

### AGENDA

**12th Meeting, 2013 (Session 4)**

**Tuesday 10 September 2013**

The Committee will meet at 10.00 am in Committee Room 3.

1. **Declaration of interests:** Ken Macintosh will be invited to declare any relevant interests.
2. **Decisions on taking business in private:** The Committee will decide whether to take items 7 & 8 in private. The Committee will decide whether its consideration of evidence received on the Scottish Government's Draft Budget 2014-15 should be taken in private at future meetings. The Committee will decide whether its consideration of a draft report on the Scottish Government's Draft Budget 2014-15 should be taken in private at future meetings.
3. **Draft Budget Scrutiny 2014-15:** The Committee will be invited to delegate to the Convener responsibility for arranging for the SPCB to pay, under Rule 12.4.3, any expenses of witnesses on the scrutiny of the Draft Budget.
4. **Your Say - 'Bedroom Tax':** The Committee will take evidence from—  
  
Anne Bradley;  
  
Lyndsay Ferry;  
  
Scott Wilson.
5. **Subordinate legislation: Council Tax Regulations** The Committee will take evidence on the Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2013 (SSI 2013/218) and Council tax Reduction (Scotland) Amendement (No. 3) Regulations 2013 (SSI 2013/239) from—  
  
Colin Brown, Senior Principal Legal Officer, Directorate for Legal Services, and Jenny Brough, Team Leader, Council Tax Unit, Scottish Government.
6. **Fact-finding visit:** Linda Fabiani will report back to the Committee on the fact-finding visit to the Dumfries and Galloway Council welfare reform pilot project.

7. **Draft Budget Scrutiny 2014-15 (in private):** The Committee will consider its approach to the scrutiny of the Scottish Government's Draft Budget 2014-15.
8. **Work programme (in private):** The Committee will consider its work programme.

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The papers for this meeting are as follows—

**Agenda item 4**

Written submissions	WR/S4/13/12/1
SPICe briefing	WR/S4/13/12/2
SPICe briefing	WR/S4/13/12/3

**Agenda item 5**

<a href="#"><u>Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2013 (SSI 2013/218)</u></a>	WR/S4/13/12/4
<a href="#"><u>Council Tax Reduction (Scotland) Amendment (No. 3) Regulations 2013 (SSI 2013/239)</u></a>	WR/S4/13/12/5
Note by the Clerk	WR/S4/13/12/6
Written submission	WR/S4/13/12/7

**Agenda item 6**

Note by the clerk	WR/S4/13/12/8
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**Agenda item 7**

Private paper	WR/S4/13/12/9
SPICe briefing	WR/S4/13/12/10

**Agenda item 8**

Private paper	WR/S4/13/12/11
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**Welfare Reform Committee**

**12th Meeting, 2013 (Session 4), Tuesday, 10 September 2013**

**Your Say Testimony**

1. Attached to this note are the written submissions provided by the Your Say respondents who will provide evidence to the Committee.
2. The witnesses are—
  - Anne Bradley (please note that Anne had previously spoken to the Committee at the informal Committee meeting in Glasgow on 23 April 2013, her story has moved on and she will now provide an update on her situation)
  - Lyndsay Ferry (please note Lyndsay will be speaking on behalf of her mother Linda Kennedy)
  - Scott Wilson
3. The witnesses will read their submissions into the record and then be available to answer questions. Given the personal nature of the evidence we have suggested that they answer questions at their discretion.
4. As background material SPICe researchers have prepared a note on the 'bedroom tax' as well as a summary of the evidence provided to the Scottish Affairs Committee as part of its inquiry. These are attached.

Clerk to the Committee  
September 2013

## **WRITTEN SUBMISSION FROM ANNE BRADLEY**

I read the article in the Evening Times regarding the "BEDROOM TAX" and I believed then, and still do, that this "TAX" is in breach of everyone's human rights and it should have been dumped.

I had a two bedroom flat rented from Queen's cross HA and letters were delivered from the housing office with advice on the bedroom tax, cost and payment methods, the letters informed that the cost of this "TAX" would cost £43.64 per month and this went up to £47.64 per month and this amount will rise with each rent increase.

I contacted the ha myself to make them aware of my request to be moved to a smaller property and that I wished to stay in the same area. The HA submitted a completed transfer application for a move and also an application for DHP. I was advised by the ha that they did not know when I would be likely to secure a transfer since there were no smaller properties available in the area I wished.

The suggestion was made that I could take in a lodger but I informed the ha that this was not something I would ever consider and I would never take a stranger into my home. If I were to take in a lodger, the housing benefit would have been reduced even further because I had someone living with me and this would have affected my ESA also, created a further struggle since After paying direct debits, there is not much left of the ESA.

Since there were no smaller properties available I believed that I should not have to pay this tax since I was willing to move but was unable to do so. The struggle with this matter will become much worse when the Universal credit is introduced and the payments for rent and the benefits are to be paid into one bank account and left to the claimant to pay the rent.

I believe that I was forced out of my home and prevented from having a family life since I shall not be able to have family members stay overnight or at weekends etc. In order for me to find a smaller property to rent and since there were no smaller properties in Glasgow, I believed that I would be forced to look further afield for a suitable property and I believed that I would have to apply for a private let which would have created even more of a problem.

The "BEDROOM TAX" is unjust and it has separated me from my family since I believed that I would have to move to where I could get a smaller property to rent.

In July, I viewed a smaller property, still in the area I wished and I was given OVERNIGHT to make a decision to either accept or decline the offer. Since I was advised that if I declined the offer it was unlikely that I would be granted the DHP a second time. Having been advised of this, I believe that I did not have the choice and I feel that I was forced to accept this property. In accepting this property, it created a struggle since I was not in a good financial situation to pay for a move within the 28 days given. Had it not been for my family I would not have been able to move.

Since moving into the property, I have become isolated since at my previous property I spoke to and met neighbours and others every day and since moving to this new address, I never speak or meet anyone. I am not happy in the new flat since it is a deck access property and there are people passing my door at all hours and I can't get used to this. The property is so small it could fit inside my previous flat. I am not happy with this property as it is not as enclosed as my previous flat, which although it was 12 floors up, I would not have moved but for the bedroom tax. I do not believe that I shall be able to settle here.

## **WRITTEN SUBMISSION FROM LINDA KENNEDY**

My name is Linda Kennedy. I will be 58 years old come the 2<sup>nd</sup> March. I have not worked for the past eight years. Six of those years, I was a full time carer to my late husband who passed away on 25 February 2011. We were offered help with the care, however, we both decided I would take care of him, giving him the dignity he deserved.

Like many others we always worked. My late husband had a saying "everybody must put into the pot, if they don't, there will be no pot (tax and national insurance). I still have those values.

At present, I suffer from anxiety and panic attacks but I am getting help for this. My total income is £72.07 per week (which is my late husband's work pension). The powers to be take £1.07 off as the government says I only need £71 per week to live off.

My problem is that I live in a 3 bedroom house alone. My kids have moved out and into their own homes. I had a visit from my housing officer telling me it will be just under £100 per month extra, but the rent rise in April could take me to just over £100 per month. He informed me I could either take in family members or a lodger(s) to help pay the bedroom tax or move to a smaller house.

I fear what the future holds and question what do I do next, where do I go, where will I end up? I have lost everything, my husband and now potentially my family home.

I know I am only the tenant, however, I class this house as my home with many great memories. I know my neighbours and they know me. Ultimately, I feel safe here.

To end this narrative debacle, I was told "well you should have bought your house". Like many others, we worked hard, paid the bills and helped the family through their formative years and education. I refuse to beat myself up for being widowed and not a homeowner. Both my kids are fortunate to be in full time employment and not on benefits. They feel angry and are disillusioned that their mother can't get a bit of respite from "the pot".

## **WRITTEN SUBMISSION FROM SCOTT WILSON**

### **Welfare Reform and the Under occupancy Charge**

I would like to tell you about my experiences of the welfare system, and particularly how the under occupancy charge will affect me and my family.

My name is Scott Wilson. I am 46 years old, and was diagnosed with younger onset Parkinson's five years ago. I had always worked hard since I was 16. Because of Parkinson's, I had to give up the successful gardening business I had built up over many years, and my decade of service as a reserved fire-fighter in South Lanarkshire where I live.

One of my Parkinson's symptoms is a very severe tremor which got worse over time and didn't respond to medication. I had to have brain surgery which has helped to control the tremors, but I still have other Parkinson's symptoms. Parkinson's is a progressive condition, so it will inevitably deteriorate, and stress makes my symptoms much worse.

When I gave up my business, I had to apply for benefits to help support myself and my family. I have a seventeen year old daughter and a ten year old son, who has a severe long term medical condition. The last thing I wanted was to have to rely on Government Benefits, but I felt that at least I had worked hard and contributed to the system before I became ill. I had lots of support from Money Matters in Lanark, who made sure I claimed the benefits that I was entitled to, including incapacity benefit, income support and an indefinite award of Disability Living Allowance.

While life was not easy, and I knew that I had an uncertain future because of my health, knowing that I could stay in my home and had some money that I could depend on made it much easier to cope.

Since the Welfare Reform Act has come in, I feel really stressed and anxious at the thought that someone who has no knowledge of my condition will re-assess my benefits, and that they could determine that I am fit for work, or that I not affected by my Parkinson's, and that I could lose the benefits I depend on. I was broken-hearted to have to give up my business, and would love to be well enough to work, but my Parkinson's makes it impossible.

I recently separated from my partner of nearly 20 years, partly because of the stress that Parkinson's has put on my family life and relationships. It has been a very difficult time for all of us, but we have maintained regular contact and my ex-partner and I continue to share the parenting of our children. It has been made worse by the fact that I have had to apply for some different benefits, and in particular the under occupancy charge / bedroom tax that will come into force in April.

I have lived in my home for 25 years. We had to sell it back to the council because of financial hardship.

I was shocked when a council employee phoned and told me that my housing benefit would be cut to the equivalent of a one bedroom home and that I would have to find the additional money from my benefits to pay for two bedrooms. I was stressed



enough about how I was going to pay for my heating, food, transport and other necessities, and this information floored me.

When I asked for more information, the council employee told me that I had three options:

1 - The council could look at re-homing me in a one bedroom flat. There are very few of these in my home town, so I might be relocated somewhere else, which could be many miles away. This would put me away from my support system – including my friends and family, and the health centre that deals with my day-to-day health needs, where the staff know me and are able to give me the help I need. And I might not even be able to access a one bedroom flat in another town as there are lots more people needing one bedroom homes than there are flats available.

2 - They could also look at house sharing with someone else who was on benefits. This would mean sharing my home with a stranger whose background I didn't know, and possibly exposing my children and myself to risks

3- That if I did stay in my house I would have to find the shortfall in the rent myself from my other benefits

I asked the person on the phone about how I could have my daughter (and expected grandchild) or my disabled son to come and stay with me if I moved to a one bedroom flat, or shared my home. I asked where were they were expected to sleep, and was told "have you never heard of inflatable beds?" This took my breath away. I was literally speechless that the love and support of my children and their need to spend quality time with their father could be so casually dismissed.

I also enquired about what happens when my Parkinson's gets worse - as Parkinson's is an incurable degenerative disease, I will progressively become more disabled and I am likely to need more support over time. Because I am no longer with my ex-partner, I may need a live-in carer to support me. I asked where a carer would stay. The reply was "we can cross that bridge when we come to it." So I may now be unable to make any plans for the future until I am really unwell when I might not be able to access the type of accommodation I would need.

I was stunned by the lack of sympathy and understanding for people in my position. I am so anxious about the whole situation, and I am concerned about the effect that this is having on my Parkinson's. This seems to be being rushed through, and it feels as though the Government in Westminster has not thought through the consequences for people like me who the benefits system is supposed to help. I can't believe that this is really being suggested, and hope that people will take notice, do what is right, and call a halt to this process.

10 September 2013		
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## **Housing Benefit – Social Sector Size Criteria (bedroom tax)**

### **Introduction**

The purpose of this briefing is to provide background on the housing benefit social sector size criteria to support the Committee in its forthcoming evidence sessions. The briefing provides information on stakeholder reaction to the measures, impact of the measures and information on discretionary housing payments.

Since 1 April 2013, housing benefit for working age tenants in the social rented housing sector is assessed according to size criteria. Housing benefit is reduced by 14% if a household is assessed as under occupying their property by 1 bedroom and by 25% if a household is considered to be under occupying by 2 bedrooms or more. Further information on the detailed provisions is available in Annex 1.

### **Reaction to the changes**

Although many stakeholder groups agree that the benefits system is in need of change the policy has been highly controversial and the Scottish Government and many Scottish stakeholder groups have been critical of the policy. Key concerns that have been raised include:

- The policy does not take into account the distinctive nature of Scottish Government housing policy and does not take into account the mismatch between the number of people needing to find smaller accommodation and the availability of such accommodation
- The policy is unfair as it is applied retrospectively – tenants may have been allowed to under occupy a property according to their landlord's allocation policy
- The cumulative impact of this policy and other welfare benefit reforms will have an effect on tenant's abilities to manage rent payments and many tenants may find themselves in arrears and a vulnerable financial position
- The potential for increased rent arrears will also impact on landlord's rental income and financial stability
- Much of the supported accommodation provided by local authorities in Scotland will not be exempt as it does not meet the definition as outlined in housing benefit regulations. The Scottish Government and the Welfare Reform Committee has made representations to the DWP regarding the need to redefine exempt supported accommodation

- The measures will particularly negatively impact on certain groups of people of people such as:
  - disabled people living in adapted or specially designed properties
  - households with a disabled or ill member that may require an extra bedroom, for example, where an extra room is required for storing special medical equipment.
  - families where the parents are separated and the children also stay with the parent who is not the main carer.

## Numbers Affected

A recent COSLA/Scottish Government survey of local authorities and further Scottish Government analysis<sup>1</sup> provides some evidence of the impact of the measures. Based on survey responses from 30 of 32 local authorities it has been estimated that, at the end of May 2013:

- There were 82,500 households in Scotland incurring a reduction in their housing benefit because they were assessed as under occupying their property.
- Of these households:
  - around 68,500 were under-occupying by one bedroom
  - around 14,000 were under-occupying by two or more bedrooms
  - around 47,500 were local authority tenants
  - around 35,000 were housing association tenants

Based on these findings the Scottish Government estimates that:

- The average reduction in housing benefit is around £11 per week per household
- Around 80% of households affected by the measures i.e. around 63,500 households contain an adult with a Disability Discrimination Act recognised disability
- 15,500 households affected by the under-occupation measures are families with children
- Of the 82,500 households affected, 60,000 would need to move to a one bedroom property to avoid under occupation penalties

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<sup>1</sup> Scottish Government (2013) [Updated Evidence On The Number Of Households Affected By The Housing Benefit Under Occupation Penalty](#), COSLA (2013) [Briefing - Housing impacts of welfare reform – Survey of councils](#)

## Responses by tenants and landlords

The response of tenants who are affected by the changes will depend on their individual circumstances and will partly be influenced by how their landlord can assist them to move and what other housing stock is available in their area. Options include:

- Moving to either a different property with the same landlord or to a different landlord in the social or private housing sector
- Taking in a boarder/lodger
- Having non-dependants living in the accommodation contribute more
- Moving into work/increasing hours
- Making up the shortfall from their existing income or seeking support from a discretionary housing payment

Social landlords have been assessing the impact of the changes in their areas and advising tenants affected by the changes of their options.

### *Moving*

Where possible, landlords are assisting tenants who want to move. Some landlords, for example, are revising their allocation policies to give greater priority to those who want to downsize, and others may allow tenants who have arrears to transfer (where this would not normally be allowed). Others are promoting mutual exchanges as a potential option for tenants to move. For landlords considering amending their allocation policies there are many issues to consider, such as the impact of changes on lets to waiting list applicants and lets need to statutory homeless persons.

In some areas it may be more difficult for tenants to downsize to other social rented accommodation as there is a particular shortage of smaller properties. In their recently updated analysis the Scottish Government estimate that nationally around 60,000 households would need to move to a one bedroom property to avoid a reduction in benefit, but in contrast it estimated that around 20,000 one bedroom properties become available for letting each year.<sup>2</sup>

The Scottish Government analysis notes that there is currently no national evidence on the numbers of tenants downsizing or moving out of social housing because of the under occupation provisions, but evidence from a recent SFHA survey is that tenants in the main are trying to sustain their tenancies rather than try to move. In this respect, financial advice and income maximisation activities of social landlords and advice agencies becomes particularly important.

### *Benefits and Income Maximisation Activities*

Many social landlords, local authorities and advice agencies are aiming to assist tenants affected by the size criteria by expanding and improving their advice

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<sup>2</sup> Scottish Government (2013) [Updated Evidence On The Number Of Households Affected By The Housing Benefit Under Occupation Penalty](#),

services, for example, by helping tenants into work, or claiming all the benefits they are entitled to. Additional funding for advice services to deal with welfare benefit changes has been provided by the Scottish Government. This funding includes an extra £7.9 million for advice and support services, £2.5 million of which is aimed at social landlords to help those affected by changes to housing benefit. Another £590,000 has been made available to boost the capacity of social landlords and homelessness prevention services to deal with housing benefit reforms.<sup>3</sup> There is currently little national evidence as to what impact that these advice services are having on tenants affected by the under-occupancy provisions.

### *Reclassification of Bedrooms*

It may be possible in certain circumstances for a landlord to reclassify rooms so they are not considered bedrooms. Early evidence from the COSLA/Scottish Government survey found that only two councils had reported having changed policies on classification of bedrooms leading up to the changes and these were in limited circumstances. A letter from Lord Freud to local authority chief executives in June 2013 stressed that the reasons for a redesignation of a bedroom has to be clear and justifiable, otherwise the DWP would consider either restricting or not paying their Housing Benefit subsidy.”<sup>4</sup>

Tenants who wish to remain in their own home but who cannot meet any shortfall in rent may also apply to their local authority for a discretionary housing payment.

### **Discretionary Housing Payments**

Discretionary Housing Payments (DHPs) are administered by local authorities and may be awarded, in addition to any welfare benefits, when a local authority considers that a claimant requires further financial assistance towards housing costs. Local authorities are not under any duty to make a DHP and the regulations<sup>5</sup> governing DHPs give local authorities broad discretion as to how the DHPs are made, although local authorities must take DWP [guidance](#) (which was updated in March 2013) into account.

The DWP awards funding for DHPs to local authorities using a distribution formula which is intended, as far as possible, to target resources according to need. The DWP's annual funding for DHPs was around £20m up until April 2011. To help mitigate the impact of the housing benefit reforms Ministers agreed to increase DHP funding to £30 million in 2011/12 and to £60 million annually for 2012/13 and for the remainder of the Spending Review period. Since then, further additional funding has been made available, some which is aimed a disabled tenants in adapted property affected by the social sector size criteria.

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<sup>3</sup> Letter from Minister for Housing and Welfare to Scottish Parliament Public Petitions Committee, 17 May 2013  
[http://scottish.parliament.uk/S4\\_PublicPetitionsCommittee/General%20Documents/PE1468\\_B\\_Scottish\\_Government\\_17.05.13.pdf](http://scottish.parliament.uk/S4_PublicPetitionsCommittee/General%20Documents/PE1468_B_Scottish_Government_17.05.13.pdf)

<sup>4</sup> See Annex A in this document <http://www.dwp.gov.uk/docs/g6-2013.pdf>

<sup>5</sup> The Discretionary Financial Assistance Regulations 2001 (as amended)

Total funding for DHPs in Scotland in 2013-14 is £13.6m (including the recent addition of £5m for the most sparsely populated areas of the country).<sup>6</sup> In July 2013 the DWP announced that a further £20m of new DHP funding would be available which local authorities would be able to bid for.<sup>7</sup>

Despite increases in DHPs, many organisations, such as Citizens Advice Scotland, Shelter and the Scottish Government have claimed that the DHP budget is far below the levels of payments that will be lost by clients (around £50m in Scotland), meaning that the majority of those affected are unlikely to be supported by DHPs.

Local authorities can top up their DWP allocation by 150% from their General Fund, so that the maximum available is 2.5 times the government's allocation. The COSLA/Scottish Government survey revealed that 14 of the 30 councils that responded have either topped up their DHP funds or have made provision to do so if required. The additional provision amounts to around £2.9m.

Early evidence points to increasing applications for DHPs. The COSLA/Scottish Government survey reported that councils had received over 22,000 applications for DHPs since advising tenants of revised HB award. For 19 local authorities this is 4 times higher than the same period last year.

A survey conducted by the SFHA survey also pointed to some frustrations experienced by housing associations in assisting their tenants access DHPs, such as the lack of transparency on how decisions are made and the quality of guidance available for completing applications. Given the short-term duration of awards it concluded that, "For most tenants receiving DHPs this temporary assistance merely postpones financial hardship, with no guarantees for success on reapplying."<sup>8</sup>

From April 2013, the DWP will look at how DHPs are being used to support claimants affected by the welfare reforms and local authorities are being asked to provide supplementary data to assist in this task.

## Increasing rent arrears

One of the main concerns about the impact of the provisions is the potential for increased rent arrears. There is currently little comprehensive national evidence on the impact on rent arrears specifically arising as a result of the size criteria. However, the COSLA/Scottish Government survey found that, "With the exception of one, all local authorities with housing stock reported an increase in arrears due to under occupancy. Three quarters of councils are reporting that non-payment of rent due following under occupancy changes is directly responsible for the increase in their

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<sup>6</sup> DWP HBS6/2013 [Housing Benefit Circular](#), note that a departmental error occurred when the original DHP allocation was distributed among Scottish IAs. The majority of IAs received a lower allocation, for these an upward adjustment has been made. 6 IAs received more than their actual entitlement and their original allocation will be honoured through a one off payment.

<sup>7</sup> DWP news release, 30 July 2013 *Spare Room Subsidy: Funding Update* <https://www.gov.uk/government/news/spare-room-subsidy-funding-update>

<sup>8</sup> SFHA (2013) [Bedroom Tax: Early Impacts](#)

rent arrears.” In a recent survey of housing associations by the SFHA it was reported that, “...all housing associations anticipated arrears to increase.”<sup>9</sup>

Social landlords are exploring responses to preventing and dealing with rent arrears associated with the size criteria. All SNP led councils have committed to no eviction policies where arrears are as a result of reductions in benefit because of under-occupation.<sup>10</sup> Dundee City Council, for example, has committed that, where the Director of Housing is satisfied that affected tenants are doing all that can be reasonably expected to in order to avoid falling into arrears, they will use all legitimate means to collect rent due, except eviction. The policy is currently time limited for 1 year.

Another example of a response to rent arrears caused by the size criteria is East Lothian Housing Association which is writing off rent arrears if the association's policy prevents them from rehousing affected tenants in a smaller property. For instance, under the social size criteria, children of different sexes under the age of 10 are expected to share a bedroom. However, under ELHA's allocation policy only children under the age of eight are expected to share, meaning the association can't rehouse some families. To qualify tenants would need to be refused a discretionary housing payment. The Association estimates that about £13,000 a year (equivalent to 0.25% of its income) will be written off.<sup>11</sup>

## Evaluation and Monitoring

COSLA and the Scottish Government are intending to carry out their survey again at regular intervals to monitor any emerging trends. The Scottish Housing Regulator has also recently undertaken a short survey of all social landlords covering, among other things, the position of rent arrears at the end of June 2013.

The DWP have commissioned Cambridge Centre for Housing and Planning Research, together with Ipsos MORI, to evaluate housing benefit changes in the social rented sector including the size criteria for the social rented sector. The evaluation seeks to understand the impact of the size criteria on claimants, landlords and other stakeholders and to explore how households respond to the reduction in their benefits. The research started in March 2013 and is due to be completed in Spring 2015.

Kate Berry  
SPICe, 29 August 2013

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<sup>9</sup> SFHA(2013) [\*Bedroom Tax: Early Impacts\*](#)

<sup>10</sup> Inside Housing 25 March 2013 *SNP Councils Ban Bedroom Tax Evictions*  
<http://www.insidehousing.co.uk/6526282.article>

<sup>11</sup> Inside Housing 14 June 2013 *East Lothian to pay bedroom tax bills* :  
<http://www.insidehousing.co.uk/tenancies/east-lothian-to-pay-bedroom-tax-bills/6527321.article>



## Annex 1 : Detail of the social sector size criteria

### Background

The UK Government has used powers contained in the Welfare Reform Act 2012 to provide that, from 1 April 2013, housing benefit for working age tenants in the social housing sector will be reduced if they are considered to be under occupying their home.

Set within the context of wider welfare reforms, this particular measure has been introduced to “..contain growing Housing Benefit expenditure; encourage mobility within the social rented sector; strengthen work-incentives and make better use of available social housing.”<sup>12</sup> The UK Government estimate that the measures will save around £500m UK wide.<sup>13</sup>

### Details

Tenants living in social rented housing now have their housing benefit claim assessed against size criteria, similar to that which is already used in the private rented sector. The size criteria is used to decide the extent to which the claimant under-occupies their home so that an appropriate percentage reduction can be made to their housing benefit. Under the *Housing Benefit (Amendment) Regulations 2012*<sup>14</sup> regulations one bedroom is allowed for each of the following:

- A couple
- A person who is not a child (age 16 and over)
- Two children of the same sex
- Two children who are under 10 years of age
- Any other child (other than a child whose main home is elsewhere)
- A non-resident overnight carer

The UK Government announced, in March 2013, that two further changes<sup>15</sup> would be made:

- An additional bedroom will be allowed for a foster child or children living with an approved foster carer or kinship carer in Scotland
- Parents of armed forces personnel who are away from home on operations will continue to have them included when applying the size criteria.

Following a Court of Appeal judgment in the cases of Burnip, Trengove and Gorry<sup>16</sup> tenants whose children are said to be unable to share a bedroom because of severe

<sup>12</sup> DWP *Under-occupation of social housing Impact Assessment*, <http://www.dwp.gov.uk/docs/social-sector-housing-under-occupation-wr2011-ia.pdf>

<sup>13</sup> *ibid*

<sup>14</sup> The DWP issued guidance on the regulations in Housing Benefit/Council Tax Benefit Circular A4/2012. Further guidance is contained in Circulars U2/2012 and A10/2013

<sup>15</sup> These additional exemptions were announced on 12 March 2013 and are detailed in [HB/CTB Circular A10/2013](#)



disabilities will be able to claim Housing Benefit for an extra room from the date of the judgment, 15 May 2012.<sup>17</sup> However, it will remain for local authorities to assess the individual circumstances of the claimant and their family and decide whether their disabilities are genuinely such that it is inappropriate for the children to be expected to share a room.<sup>18</sup>

If a tenant is considered to be under-occupying their accommodation, using the above criteria, there will be a reduction in their “eligible rent” (on which housing benefit is based) of:

- 14% if they are considered to have one extra bedroom
- 25% if they have two or more extra bedrooms

There will be grace periods, where the provisions will not be applied, as follows:

- 13 weeks for anyone who could previously afford their rent (i.e. without Housing Benefit, and have not claimed it for the last year)
- 52 weeks if the reason for now under occupying is that have suffered bereavement in the household.

## Exemptions

There are a number of exemptions<sup>19</sup> which apply to the under occupancy provisions:

- The property is under Shared Ownership
- The claimant has an overnight carer requirement
- The claimant is over the qualifying age for state pension, or the claimant has a partner over that age
- The property is non-mainstream accommodation e.g. house boats / caravans
- The claimant is accepted as homeless and placed in temporary accommodation (as defined in the regulations)
- Where there is a temporary absence of children who live at the home (less than 13 weeks or 52 weeks for students and the young person concerned intends to return home)
- The claimant lives in Supported ‘Exempt’ Accommodation. This is defined in legislation as either a “resettlement place”; or accommodation provided by a county council, housing association, registered charity or voluntary organisation where that body or person acting on their behalf provides the claimant with care, support or supervision.


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<sup>16</sup> *BURNIP* [2012] EWCA Civ 629

<sup>17</sup> The Department of Work and Pensions (DWP) is reported in the Guardian as saying it would introduce the new regulations as soon as parliament was sitting after the summer break.

<sup>18</sup> See DWP [Housing Benefit and Council Tax Benefit Urgent Bulletin HB/CTB U2/2013](#)

<sup>19</sup> See DWP [Housing Benefit and Council Tax Benefit Circular HB/CTB A4/2012](#)

10 September 2013		
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## Summary of Evidence to the Scottish Affairs Committee

The Scottish Affairs Committee of the UK Parliament is conducting an inquiry into, “The impact of the Bedroom Tax and other changes to housing benefit in Scotland”. It has taken oral evidence in three sessions from:

- Citizens Advice Scotland<sup>1</sup>
- CIH Scotland and the SFHA<sup>2</sup>
- the STUC<sup>3</sup>

It also received twelve written submissions, three of which also provided oral evidence (see the full list in Annex 1). This paper briefly summaries the written evidence received by the Committee and also refers to the oral evidence of the [STUC](#) who did not provide any written evidence. Further information is available from SPICe on request.

Many respondents noted that while it is still too early to assess the full impact of the under occupancy measure on people in Scotland, some of its effects are becoming evident.

## General views on the policy

- Witnesses questioned the **logic and motivations** behind the policy, particularly around the UK Government’s claims that it would lead to better use of social housing stock, reduce overcrowding and reduce the cost of Housing Benefit.

## Geographical Differences

- Many people considered that the policy does not take **geographical differences** into account, particularly the lack of availability of smaller homes, rurality and the higher proportion of disabled people in Scotland.

<sup>1</sup> Tue 16 July <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmsscota/uc288-iii/uc28801.htm> Please note that this transcript is uncorrected

<sup>2</sup> Tue 11 June <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmsscota/uc288-i/uc28801.htm> Please note that this transcript is uncorrected

<sup>3</sup> Tue 18 June <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmsscota/uc288-ii/uc28801.htm> Please note that this transcript is uncorrected

- The majority of respondents highlighted the mismatch between the number of people needing to find **smaller accommodation** and the **availability** of such housing.
- The Scottish Government noted that **temporary accommodation** provided to homeless people in local authority accommodation is subject to the measure. Most temporary accommodation in Scotland is provided in the social rented sector unlike in England where the use of private sector temporary accommodation is more common.

### Impact on Specific Groups

- Concerns about specific groups of people being disproportionately affected, such as **disabled people and their carers**, were raised by many people. The under occupancy policy has some exemptions, and it allows an extra bedroom when there is a need for overnight care, but as many people noted this does not count if there is just a need for occasional overnight care or for co-habiting spouses who have separate bedrooms. Parkinson's UK, for example, stated that, "the exclusion of those who need a spare room for their cohabiting carer is deeply unfair. One of the most common symptoms of Parkinson's is difficulties with sleeping. This can include both vivid nightmares, which can cause the person to lash out in their sleep, and also involuntary movements such as kicking or hitting out..."
- Some respondents pointed out issues with the rules about parents with **shared access to children**. Where a parent is not the main carer for the child they will be subject to the under occupancy rules. One father with shared access to his child who has been subject to the under occupancy provisions responded, "Father's don't get any help from benefits to bring up their children, but now we get charged for our child's bedroom. I don't know what to do. I am starting to think I should give my child to the mother and not be part of my son's life anymore."

### Exemptions

- In terms of exemptions to the under-occupancy measure, some respondents voiced concerns about the narrow scope of exemptions for those in **supported accommodation**. The definition does not include supported housing owned and let by local authorities and evidence suggested that there was a "lack of clarity" about situations where the landlord is not also the support provider.

### Financial Implications

- Rises in **rent arrears** and were considered by respondents to have been caused by the under-occupancy measures and would be exacerbated by the move to **direct payment of benefits** to tenants. The cumulative impact of multiple benefit reforms was pointed out as a factor in the rise in arrears, as claimants experiencing a reduction in their benefit may choose to prioritise

immediate costs such as food and bills over rent, if their Housing Benefit is being paid to them instead of directly to the landlord.

- Organisations also noted **costs to social landlords** through the loss of Housing Benefit income, alongside the costs involved in administering the reforms, raising awareness and relocations.

## Mitigation

- Respondents noted that work going on **to improve advice services** in light of increasing demand. Citizens Advice Scotland cited evidence that bureaux in Scotland advised on 19,586 new Housing Benefit issues in 2012-13, which represents an 11% increase on the previous year. However, this masks a much bigger recent increase in cases- looking at year-on-year statistics, there was a 40% increase in issues in April 2013 compared to April 2012.
- CIH (Scotland) considered that the Scottish Government has only **limited powers** to mitigate the impact of welfare reform changes and they believed that these powers are being used effectively.

## Direct Housing Payments

- In response to the measure, many respondents highlighted the **extra funding** for **Discretionary Housing Payments** (DHPs), but acknowledged that these could not mitigate against the full impact of the measure.
- The Coalition of Care and Support Providers in Scotland, The Criminal Justice Voluntary Sector Forum and The Housing Support Enabling Unit stated that DHPs can only temporarily relieve a shortfall in rent, and **demand for them is growing**- for example they note that Glasgow City Council received 5,501 applications for DHP in April 2013 compared with just 1,437 in April 2012.
- Local authorities can top up their UK Government DHP allocation by 150% from their own funds. The STUC noted **varying practice** in terms of how local authorities were topping up DHP funds –some such as Fife and Aberdeen, were making full use of their DHP. The STUC suggested that that there was a “postcode lottery” developing and that local authorities could make full use of their DHP allocation. They had asked the Scottish Government to take action with respect to funding of local authorities in order to enable them to make full use of the flexibility that is provided for them within the DWP legislation and guidance on discretionary housing payments.
- The STUC thought that councils could do more to **publicise and promote DHPs** for individual tenants.

**Annex 1: List of Responses to the call for evidence**

1. Chartered Institute of Housing Scotland

2. Scottish Federation of Housing Associations

3 Capability Scotland

4 Robert Steele

5 Mr and Mrs Henderson

6 Citizens Advice Scotland

7 James Kempston

8 The Scottish Government

9 The Coalition of Care and Support Providers in Scotland, The Criminal Justice Voluntary Sector Forum and The Housing Support Enabling Unit

10 Shelter Scotland

11 Carers Scotland

12 Parkinson's UK

**Welfare Reform Committee**

**12<sup>th</sup> Meeting, 2013 (Session 4), Tuesday 10 September 2013**

**Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2013**

**SSI 2013/218 and (No.3) Regulations 2013 SSI 2013/239**

**Council Tax Reduction (Scotland) Amendment (No.2) Regulations 2013 (SSI 2013/218)**

1. The Scottish Government laid the Council Tax Reduction (Scotland) Amendment (No.2) Regulations 2013 (SSI 2013/218) on 27 June 2013. The accompanying Policy Note is attached at Annexe A.
2. These regulations amend the Council Tax Reduction (Scotland) Regulations 2012 and the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012.
3. These regulations will primarily give effect to the recommendations contained in Jim McCafferty's report on an independent review process for the Council Tax Reduction Scheme.<sup>1</sup>
4. The regulations will remove the right to make an appeal against a council tax reduction decision to a Valuation Appeals Committee, establish a new process for an applicant to request a further review of a local authority decision and set out criteria for individuals to be appointed to hear those reviews.
5. These regulations also address a small number of minor issues identified in relation to the Council Tax Reduction Scheme. Examples are the clarification by regulations 3 and 14 that residence for some purposes means "sole or main residence" and Regulation 4 that adds a provision concerning the entitlement rules for a small category of students. All of these amendments are consistent with the original policy intention of the Council Tax Reduction Scheme.
6. The Regulations are subject to the negative procedure. They will come into force on 1 October 2013.

**Stakeholders views (SSI 2013/218)**

7. Clerks sought to contact the individuals and organisations who had been consulted by Jim McCafferty during his work on formulating an independent review process.

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[http://www.scottish.parliament.uk/S4\\_Welfare\\_Reform\\_Committee/General%20Documents/20130611\\_JS-MM\\_Council\\_Tax\\_Reduction\\_Scheme\\_Review\\_Process\\_Part\\_2.pdf](http://www.scottish.parliament.uk/S4_Welfare_Reform_Committee/General%20Documents/20130611_JS-MM_Council_Tax_Reduction_Scheme_Review_Process_Part_2.pdf)

8. Enclosed is a response received from Child Poverty Action Group which highlights several areas of concern it has with the regulations including:

- Time limits
- Process where the authority does not review its decision after an application
- Lack of a procedure to challenge review panel decisions
- Process of a review and guidance and support for applications

### **Council Tax Reduction (Scotland) Amendment (No.3) Regulations 2013 SSI 2013/239**

9. The Scottish Government laid the Council Tax Reduction (Scotland) Amendment (No.3) Regulations 2013 (SSI 2013/239) on 9 August 2013. The accompanying Policy Note is attached at Annexe B.

10. These Regulations are being made to correct a defect in SSI/2013/218, where the words "State Pension Credit" were omitted in error from the title of The Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012 where these are referenced in Regulation 9.

### **Delegated Powers and Law Reform Committee consideration**

11. The Delegated Powers and Law Reform Committee considered both sets of Regulations at its meeting on 3 September 2013.

12. In relation to both the Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2013 (SSI 2013/218) and the Council Tax Reduction (Scotland) Amendment (No. 3) Regulations 2013 (SSI 2013/239), the Convener proposed that the Committee considers that the Regulations are intra vires and should not be drawn to the attention of the Parliament on the basis that they may raise a devolution issue. The proposals were agreed to by division (For 4, Against 3, Abstentions 0). Further information on the Committee's consideration is available in the Official Report.<sup>2</sup>

13. The Committee also agreed to draw SSI 2013/2018 to the Parliament's attention on report ground (i) that its drafting appears to be defective. The relevant extract from the Delegated Powers and Law Reform Committee is attached at Annexe C.

### **Recommendation**

14. The Committee is invited to consider and note the Regulations.

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<sup>2</sup> Scottish Parliament Delegated Powers and Law Reform Committee. Official Report, 3 September 2013, Col 1022-1024

<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=8462&mode=pdf>

**Clerk to the Committee**

**September 2013**



**ANNEXE A****POLICY NOTE**

**THE COUNCIL TAX REDUCTION (SCOTLAND) AMENDMENT (No.2)  
REGULATIONS 2013 (SSI 2013/218)**

1. The above instrument is made in exercise of the powers conferred by sections 80 and 113 of, and paragraph 1 of Schedule 2 to, the Local Government Finance Act 1992. It is subject to the negative procedure.

**Policy Objective**

2. The UK Government's abolition of Council Tax Benefit (CTB) from April 2013 included a transfer of responsibility for the local taxation liabilities of vulnerable people to the Scottish Government. The Scottish Government provided for a Council Tax Reduction (CTR) scheme for such people.

3. The original intention was that appeals in relation to the CTR scheme would be made to local Valuation Appeals Committees (VACs), as determined by the Local Government Finance Act 1992 and consistent with other council tax appeals. It became clear in February 2013 that VACs were not willing to hear such appeals.

4. Scottish Ministers then commissioned Jim McCafferty, the immediate past president of the Institute of Revenues, Ratings and Valuation Scotland, in consultation with the Scottish Committee of the Administrative Justice & Tribunals Council, to:

*“formulate a process to ensure the assessment of an individual's Council Tax Reduction may be independently reviewed, thereby ensuring individuals' rights to administrative justice are safeguarded.”*

5. Mr McCafferty reported in early June. The Scottish Government has accepted all of his recommendations, including the establishment of a “new, distinct review process” with “the features and safeguards of an independent tribunal”.

6. These regulations give effect to the recommendations contained in the report requiring legislative change. In particular, they remove the right to make an appeal against a council tax reduction decision to a Valuation Appeals Committee, establish a new process for an applicant to request a further review of a local authority decision and set out criteria for individuals to be appointed to hear those reviews.

7. These regulations also address a small number of minor issues identified in relation to the Council Tax Reduction Scheme. Examples are the clarification by regulations 3 and 14 that residence for some purposes means “sole or main

residence” and Regulation 4 that adds a provision concerning the entitlement rules for a small category of students. All of these amendments are consistent with the original policy intention of the Council Tax Reduction Scheme.

## **Consultation**

8. In developing his recommended approach, Mr McCafferty engaged with a range of key stakeholders, including the Scottish Committee of the Administrative Justice and Tribunals Council, as listed in the annex to his report.

9. In preparing draft regulations to implement Mr McCafferty’s recommendations, the Scottish Government sought the views of the practitioner community, COSLA and the Child Poverty Action Group, who have represented the Scottish Campaign for Welfare Reform in this matter. All were supportive of the process proposed by Mr McCafferty.

## **Financial Effects - Scottish Government and Local Government**

10. The costs associated with the establishment and operation of the new review panel will fall wholly on the Scottish Government and can be met from existing budgets. Provisional estimates from the Scottish Tribunal Service suggest that the initial establishment or start-up costs will be £58,300 and the on-going running costs are provisionally estimated to be in the range of £93,581 - £141,760 per annum.

11. The amendments to the CTR Scheme will have no financial impact.

## **Financial Effects - Individuals and Households**

12. There will be no impact on individuals and households as a result of these Regulations.

## **Impact Assessments**

13. The policy will have a potential equalities impact and therefore an Equalities Impact Assessment (EQIA) has been undertaken. A summary of the results of the EQIA has been made available on the Scottish Government’s website. Equalities impacts are being continually reviewed and evaluated during the implementation of the new arrangements for localised Council Tax support this year.

14. As the policy has no direct impact on business or the third sector, or on the environment or environmental issues, neither a Business and Regulatory Impact Assessment (BRIA) or a Strategic Environmental Assessment (SEA) is required.

15. Implementation of the CTR policy will involve the use and storage of personal data, such as date of birth and postcode of CTR recipients. This data will be

supplied to the Scottish Government by Local Authorities. In order to ensure the risks involved in transferring, processing and storing this data are assessed, and kept to a minimum, a Privacy Impact Assessment has been carried out, including a Risk Identity checklist.

## **Local Government and Communities**

**Scottish Government, June 2013**

**ANNEXE B**

**POLICY NOTE**

**THE COUNCIL TAX REDUCTION (SCOTLAND) AMENDMENT (No.3)**

**REGULATIONS 2013 (SSI 2013/239)**

1. The above instrument is made in exercise of the powers conferred by sections 80 and 113 of, and paragraph 1 of Schedule 2 to, the Local Government Finance Act 1992. It is subject to the negative procedure.

**Policy Objective**

2. These Regulations are being made to correct a defect in SSI/2013/218, where the words "State Pension Credit" were omitted in error from the title of The Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012 where these are referenced in Regulation 9.

**Consultation**

3. As these Regulations make a minor amendment to earlier amendment Regulations, no consultation has been undertaken.

**Financial Effects**

4. These Regulations will have no financial impact, and no impact on individuals and households.

**Impact Assessments**

5. The overall Council Tax Reduction policy will have a potential equalities impact and therefore an Equalities Impact Assessment (EQIA) has been undertaken. A summary of the results of the EQIA has been made available on the Scottish Government's website. Equalities impacts are being continually reviewed and evaluated during implementation this year.

6. As the policy has no direct impact on business or the third sector, or on the environment or environmental issues, neither a Business and Regulatory Impact Assessment (BRIA) or a Strategic Environmental Assessment (SEA) is required.

7. Implementation of the policy will involve the use and storage of personal data, such as date of birth and postcode of Council Tax Reduction recipients. This data will be supplied to the Scottish Government by Local Authorities. In order to ensure the risks involved in transferring, processing and storing this data are assessed, and kept to a minimum, a Privacy Impact Assessment has been carried out, including a Risk Identity checklist.

**Local Government and Communities**

**Scottish Government, August 2013**

## ANNEXE C

### Extract from Delegated Powers and Law Reform Committee, 42nd Report, 2013 (Session 4), Subordinate Legislation

#### Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2013 (SSI 2013/218) (*Welfare Reform Committee*)

1. The Regulations make various amendments to the Council Tax Reduction (Scotland) Regulations 2012 and to the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012. They remove the right to make an appeal against a decision by a local authority on an application for council tax reduction under those principal 2012 Regulations to a Valuation Appeals Committee, and substitute a new review and appeal process. The Regulations also make a few clarifications and other amendments to the existing schemes in the principal 2012 Regulations.

2. The Regulations will come into force on 1 October 2013.

3. In considering the instrument, the Committee asked the Scottish Government for clarification of certain points. The correspondence is reproduced at Annex 1.

4. **The Committee draws the Regulations to the attention of the Parliament on reporting ground (i). Regulation 9 appears to be defectively drafted, as it provides that the Council Tax Reduction (Scotland) Regulations 2012 are amended in accordance with regulations 10 to 16, when the intention is to so amend the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012.**

5. **The Scottish Government has acknowledged this error. It has laid the Council Tax Reduction (Scotland) Amendment (No. 3) Regulations 2013 on 9 August to correct it, in time for the coming into force of these Regulations on 1 October 2013.**

**2013 No. 218**

**COUNCIL TAX**

**The Council Tax Reduction (Scotland) Amendment (No. 2)  
Regulations 2013**

<i>Made</i>	- - - -	<i>25th June 2013</i>
<i>Laid before the Scottish Parliament</i>		<i>27th June 2013</i>
<i>Coming into force</i>	- -	<i>1st October 2013</i>

The Scottish Ministers make the following Regulations in exercise of the powers in sections 80 and 113(1) and (2) of, and paragraph 1 of Schedule 2 to, the Local Government Finance Act 1992(a) and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2013 and come into force on 1st October 2013.

**Amendment of the Council Tax Reduction (Scotland) Regulations 2012**

2. The Council Tax Reduction (Scotland) Regulations 2012(b) are amended in accordance with regulations 3 to 8.

3. In regulation 14(3)(a) (conditions of entitlement to council tax reduction), after “resides” insert “as their sole or main residence”.

4. In regulation 20(c) (persons not entitled to council tax reductions: students)—

(a) after paragraph (3)(i)(i) insert—

“(ia) aged 21 and attained that age during a course of study which is not a course of higher education;”;

(b) in paragraph (5)—

(i) for “For the purposes of paragraph 3(i)(i)” substitute “In paragraph (3)(i)”;

(ii) for sub-paragraph (a) substitute—

“(a) head (ia) only applies to an applicant until the end of the course during which the applicant attained the age of 21;”;

(iii) in sub-paragraph (b), for “the reference” substitute “a reference”.

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(a) 1992 c.14. Section 80 was amended by paragraph 176 of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c.39). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.S.I. 2012/303, amended by S.S.I. 2013/48 and 2013/142.

(c) There is an amendment to regulation 20, but it is not relevant to these Regulations.

5. In regulation 28(11)(g) (treatment of child care charges) for “or (vi)” substitute “, (vi) or (vii)”.

6. In regulation 51 (calculation of tariff income from capital), in paragraph (1) for “in excess of” to the end substitute “in excess of £6,000.”.

7. After regulation 90 (alternative means of notifying change of circumstances) insert—

## “PART 11A

### Reviews

#### **Review of determination on an application**

**90A.**—(1) A determination on an application may not be appealed to a valuation appeal committee.

(2) An applicant who is aggrieved by a determination on an application may serve a written notice on the relevant authority requesting that it review its determination.

(3) The notice under paragraph (2) must be served within two months of the determination it relates to and must state the matter by which, and the grounds on which, the applicant is aggrieved.

(4) Where a notice under paragraph (2) is served on a relevant authority, that authority must—

- (a) consider the matter to which the notice relates;
- (b) within two months of receipt of the notice, redetermine the application or decide that no alteration of the determination is to be made;
- (c) notify the applicant in writing of its decision and that if the applicant remains aggrieved then a request for further review may be made within 42 days of the notification, with the address to which any such a request is to be sent.

#### **Request for further review**

**90B.**—(1) A request for further review of a determination on an application must be made in writing within 42 days of the notification by the relevant authority under sub-paragraph (c) of regulation 90A(4) and be served at the address notified under that sub-paragraph.

(2) A request for further review of a determination on an application may also be made where a relevant authority has not notified the applicant of a decision on a request for review under regulation 90A(2) and more than two months have elapsed since the notice requesting review was served.

(3) A request under paragraph (2)—

- (a) must be made in writing and be served on the relevant authority; and
- (b) prevents the relevant authority from notifying a decision on the request for review under regulation 90A(2).

(4) A request for further review must state the matter by which, and the grounds on which, the applicant is aggrieved.

(5) Where a relevant authority is served with a notice requesting further review it must, as soon as possible, forward it to the panel appointed by the Scottish Ministers under regulation 90C.

#### **Panel to conduct further reviews**

**90C.**—(1) The Scottish Ministers must appoint a panel of persons (“the panel”) to conduct further review of determinations on applications.

- (2) A person may only be appointed to the panel if that person—
  - (a) is a solicitor or advocate in Scotland of at least 5 years' standing;
  - (b) has a five year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990(a); or
  - (c) is a member of the Bar of Northern Ireland, or a solicitor of the Court of Judicature of Northern Ireland, of at least 5 years' standing.
- (3) A person may not be appointed to the panel, and if appointed must immediately be removed from the panel, if that person—
  - (a) is a member or employee of a local authority in Scotland;
  - (b) is a member of Parliament, of the Scottish Parliament or of the European Parliament.
- (4) The Scottish Ministers may remove a person from the panel if they consider that the person is unable to discharge the functions of a panel member or is unsuitable to serve on the panel.
- (5) A member of the panel is entitled to receive payment of such allowances as the Scottish Ministers may determine in respect of performance of the functions of a panel member.

### **Conduct of further reviews**

- 90D.**—(1) A further review of a determination on an application is to be undertaken by one member of the panel appointed under regulation 90C(1), except as set out in paragraph (8).
- (2) A further review is to include an oral hearing unless the parties and the member of the panel who is undertaking the review agree that the review is to be disposed of by written representations.
  - (3) A party to a further review must, if requested, advise the member of the panel who is undertaking the review—
    - (a) whether that party agrees that the review may be disposed of by written representations;
    - (b) whether the applicant has appealed any application for housing benefit that may be relevant to the consideration of the further review, and if so whether that appeal has been determined (insofar as these matters are within the party's knowledge).
  - (4) Where either party to a further review is requested by the member of the panel who is undertaking the further review to provide documents or information and fails to respond to that request within such timescale as the member considers reasonable, such inferences may be drawn from the failure as the member sees fit, including the inference that the further review should be allowed or refused.
  - (5) A request for further review that has been validly made in accordance with regulation 90B may not be withdrawn other than with leave of the member of the panel who is undertaking that review.
  - (6) The member of the panel who is undertaking the further review—
    - (a) is to decide the procedure for that review;
    - (b) may hold any oral hearing in public or private, as the member sees fit;
    - (c) may request, but has no power to require, the production of documents or the attendance of any person as a witness;
    - (d) if satisfied that there are good and sufficient reasons for doing so, may refuse to permit a particular person to represent a party at an oral hearing; and

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(a) 1990 c.41. Section 71 is relevantly amended by paragraph 4 of Schedule 11 to the Constitutional Reform Act 2005 (c.4).



- (e) may uphold or reject the request for that review, in full or in part, but must remit any calculation of the amount of an applicant's entitlement to a council tax reduction to the relevant authority.

(7) The relevant authority must implement the decision of the member of the panel disposing of a request for further review of a determination as soon as is reasonably practicable, including any calculation of the amount of an applicant's entitlement to a council tax reduction that is required.

(8) In the circumstances of a particular case the Scottish Ministers may consider it appropriate for three members of the panel appointed under regulation 90C(1) to undertake the further review, and in such a case references in this regulation to anything being done or decided by a member of the panel refer to it being done or decided by all three members, or by two of them should they not be agreed.”.

**8.** In Schedule 1, in paragraph 28 (applicable amount: amount of transitional addition)(a)—

- (a) in sub-paragraph (3)(a) for “the applicant's partner had not been treated” substitute “the relevant person had not been so treated”; and
- (b) in sub-paragraph (3)(b) for “treated” substitute “so treated”.

## **Amendment of the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012**

**9.** The Council Tax Reduction (Scotland) Regulations 2012(b) are amended in accordance with regulations 10 to 16.

**10.** In regulation 14(3)(a) (conditions of entitlement to council tax reduction), after “resides” insert “as their sole or main residence”.

**11.** In regulation 27 (meaning of “income”) omit paragraph (1)(j)(vi).

**12.** In regulation 29(11)(g) (treatment of child care charges) after “(iv),” insert “(v),”.

**13.** After regulation 70 (alternative means of notifying changes of circumstances) insert—

## **“PART 10A**

### **Reviews**

#### **Review of determination on an application**

**70A.**—(1) A determination on an application may not be appealed to a valuation appeal committee.

(2) An applicant who is aggrieved by a determination on an application may serve a written notice on the relevant authority requesting that it review its determination.

(3) The notice under paragraph (2) must be served within two months of the determination it relates to and must state the matter by which, and the grounds on which, the applicant is aggrieved.

(4) Where a notice under paragraph (2) is served on a relevant authority, that authority must—

- (a) consider the matter to which the notice relates;
- (b) within two months of receipt of the notice, redetermine the application or decide that no alteration of the determination is to be made;

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(a) Paragraph 28 is amended by regulation 14(m) of S.S.I. 2013/48.

(b) S.S.I. 2012/319, amended by S.S.I. 2013/49 and 2013/142.

- (c) notify the applicant in writing of its decision and that if the applicant remains aggrieved then a request for further review may be made within 42 days of the notification, with the address to which any such a request is to be sent.

### **Request for further review**

**70B.**—(1) A request for further review of a determination on an application must be made in writing within 42 days of the notification by the relevant authority under sub-paragraph (c) of regulation 70A(4) and be served at the address notified under that sub-paragraph.

(2) A request for further review of a determination on an application may also be made where a relevant authority has not notified the applicant of a decision on a request for review under regulation 70A(2) and more than two months have elapsed since the notice requesting review was served.

(3) A request under paragraph (2)—

- (a) must be made in writing and be served on the relevant authority; and
- (b) prevents the relevant authority from notifying a decision on the request for review under regulation 70A(2).

(4) A request for further review must state the matter by which, and the grounds on which, the applicant is aggrieved.

(5) Where a relevant authority is served with a notice requesting further review it must, as soon as possible, forward it to the panel appointed by the Scottish Ministers under regulation 90C of the Council Tax Reduction Regulations(a).

### **Conduct of further reviews**

**70C.**—(1) A further review of a determination on an application is to be undertaken by one member of the panel appointed under regulation 90C(1) of the Council Tax Reduction Regulations, except as set out in paragraph (8).

(2) A further review is to include an oral hearing unless the parties and the member of the panel who is undertaking the review agree that the review is to be disposed of by written representations.

(3) A party to a further review must, if requested, advise the member of the panel who is undertaking the review—

- (a) whether that party agrees that the review may be disposed of by written representations;
- (b) whether the applicant has appealed any application for housing benefit that may be relevant to the consideration of the further review, and if so whether that appeal has been determined (insofar as these matters are within the party's knowledge).

(4) Where either party to a further review is requested by the member of the panel who is undertaking the further review to provide documents or information and fails to respond to that request within such timescale as the member considers reasonable, such inferences may be drawn from the failure as the member sees fit, including the inference that the further review should be allowed or refused.

(5) A request for further review that has been validly made in accordance with regulation 70B may not be withdrawn other than with leave of the member of the panel who is undertaking that review.

(6) The member of the panel who is undertaking the further review—

- (a) is to decide the procedure for that review;
- (b) may hold any oral hearing in public or private, as the member sees fit;

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(a) S.S.I. 2012/303. Regulation 90C is inserted by regulation 7 of these Regulations.

- (c) may request, but has no power to require, the production of documents or the attendance of any person as a witness;
- (d) if satisfied that there are good and sufficient reasons for doing so, may refuse to permit a particular person to represent a party at an oral hearing; and
- (e) may uphold or reject the request for that review, in full or in part, but must remit any calculation of the amount of an applicant's entitlement to a council tax reduction to the relevant authority.

(7) The relevant authority must implement the decision of the member of the panel disposing of a request for further review of a determination as soon as is reasonably practicable, including any calculation of the amount of an applicant's entitlement to a council tax reduction that is required.

(8) In the circumstances of a particular case the Scottish Ministers may consider it appropriate for three members of the panel appointed under regulation 90C(1) of the Council Tax Reduction Regulations to undertake the further review, and in such a case references in this regulation to anything being done or decided by a member of the panel refer to it being done or decided by all three members, or by two of them should they not be agreed.”.

**14.** In Schedule 1, in each of heads (a) and (b) of paragraph 6(1) (disability premiums) for “the applicant” substitute “the person”.

**15.** In Schedule 2, in paragraph 5(1)(d) (sum to be disregarded in the calculation of earnings) for “capacity” substitute “capability”.

**16.** In Schedule 5, in definition of “council tax due in respect of that day” in paragraph 4 for sub-paragraph (a) substitute—

- “(a) any reductions in liability for council tax under regulations made under section 80 of the Act or under a scheme established under section 80A of the Act, other than a reduction under these Regulations;”.

### **Transitional provisions**

**17.** Regulation 90A (review of determination on an application) of the Council Tax Reduction (Scotland) Regulations 2012(a) applies to a determination made before the date that these Regulations come into force, and for such purposes—

- (a) the two month period referred to in paragraph (3) is deemed to commence on that date; and
- (b) any notice of appeal relating to an application under those Regulations that has been served on the relevant authority under section 81 of the Local Government Finance Act 1992(b) before that date, and has not been disposed of, is to be progressed as if it were a notice served under paragraph (2) on that date.

**18.** Regulation 70A (review of determination on an application) of the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012(c) applies to a determination made before the date that these Regulations come into force, and for such purposes—

- (a) the two month period referred to in paragraph (3) is deemed to commence on that date; and

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(a) Regulation 90A is inserted by regulation 7 of these Regulations.

(b) 1992 c.14.

(c) Regulation 70A is inserted by regulation 13 of these Regulations.

- (b) any notice of appeal relating to an application under those Regulations that has been served on the relevant authority under section 81 of the Local Government Finance Act 1992 before that date, and has not been disposed of, is to be progressed as if it were a notice served under paragraph (2) on that date.

St Andrew's House,  
Edinburgh  
25th June 2013

*JOHN SWINNEY*  
A member of the Scottish Government

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Council Tax Reduction (Scotland) Regulations 2012 (“the principal CTR Regulations”) and the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012 (“the SPC CTR Regulations”).

Regulation 3 amends the principal CTR Regulations to clarify that a person must be residing in a dwelling as their sole or main residence for them to be entitled to a council tax reduction. Section 99 of the Local Government Finance Act 1992 already gives “resides” that meaning, except where otherwise provided, but the amendment removes potential for doubt.

Regulation 4 amends the principal CTR Regulations in respect of some students who are 21 years of age, who are currently unable to obtain a council tax reduction.

Regulation 5 corrects an error in the principal CTR Regulations relating to the treatment of child care charges, and regulation 6 amends the rules for calculating income based on an applicant’s capital.

Regulation 7 provides for a review by a local authority of its determination on an application for council tax reduction, where an applicant requests such a review. Such a request must be made within two months of a determination. It will no longer be possible to appeal such a determination to a valuation appeal committee.

The amendments also provide for further review if an applicant for a council tax reduction remains dissatisfied following a review. A request for such a review will be forwarded to a panel of persons appointed by the Scottish Ministers, who will conduct the review.

Provision is made for the qualifications that panel members must have to be appointed and for their powers in undertaking further reviews. Provision is also made for implementation of panel decisions.

Regulation 8 clarifies how a calculation is to be undertaken in certain cases where an appeal has been made against a benefit award.

Regulations 10, 12 and 13 make similar provision in respect of the SPC CTR Regulations to that made by regulations 3, 5 and 7.

Regulations 11, 14 and 15 make minor corrections to the SPC CTR Regulations.

Regulation 16 amends Schedule 5 to the SPC CTR Regulations to ensure that a calculation of council tax due calculates the tax that is due before any reduction under those Regulations.

Regulations 17 and 18 make transitional provision for determinations made prior to the commencement of these Regulations. Such determinations may be reviewed as provided for by these Regulations, and any appeal lodged, but not yet determined, will be progressed as such a review, rather than an appeal.

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SCOTTISH STATUTORY INSTRUMENTS

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**2013 No. 239**

**COUNCIL TAX**

**The Council Tax Reduction (Scotland) Amendment (No. 3)  
Regulations 2013**

<i>Made</i>	- - - -	<i>7th August 2013</i>
<i>Laid before the Scottish Parliament</i>		<i>9th August 2013</i>
<i>Coming into force</i>	- -	<i>30th September 2013</i>

The Scottish Ministers make the following Regulations in exercise of the powers in sections 80 and 113(1) and (2) of, and paragraph 1 of Schedule 2 to, the Local Government Finance Act 1992(a) and all other powers enabling them to do so.

**Citation and commencement**

**1.** These Regulations may be cited as the Council Tax Reduction (Scotland) Amendment (No. 3) Regulations 2013 and come into force on 30th September 2013.

**Amendment of the Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2013**

**2.** In regulation 9 of the Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2013(b), after “Reduction” insert “(State Pension Credit)”.

St Andrew’s House,  
Edinburgh  
7th August 2013

*JOHN SWINNEY*  
A member of the Scottish Government

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(a) 1992 c.14. Section 80 was amended by paragraph 176 of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c.39). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).  
(b) S.S.I. 2013/218.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2013 to correct an error in a reference to earlier Regulations.

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## **CPAG in Scotland written evidence on the Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2013 SSI No. 218 - September 2013**

### **About CPAG in Scotland**

Child Poverty Action Group in Scotland provides advice, information and training to frontline advisers on social security and related devolved financial support. As a provider of second-tier advice on social security law, we have extensive experience of providing advice to advisers about Council Tax benefit (CTB) entitlement, and who are preparing housing benefit (HB) and CTB appeals.

### **1. General comments**

1.1 We hope that in practice the Council Tax reduction (CTR) reviews will emulate the accessibility and informal nature of the reserved CTB appeals that they replace. From the point of view of the applicant, this will be best achieved by aligning the process of deciding HB appeals and CTR reviews to the greatest extent possible. We are pleased that an independent review panel will be established, and that Jim McCafferty's recommendations<sup>1</sup> have largely been followed. However, we have highlighted below some concerns that we have with the provisions made by the Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2013, SSI No. 218. As these insert identical provisions for those applicants who are above and below the qualifying age for state pension credit, we refer only to the regulations inserted into the Council Tax Reduction (Scotland) Regulations 2012, SSI No 303. These are referred to below simply as 'the Regulations'.

### **2. Time limits**

2.1 We are concerned by the lack of flexibility in the time limits for requesting a review of a CTR decision (Reg 90A(3) and Reg 90B(1)). The extension of the standard time limits (compared with CTB) will undoubtedly assist some applicants, such as those unable to get advice about the chances of a successful challenge within a month. However, it also risks confusion as the time limits are not the same as those that apply to housing benefit (HB) appeals. In many cases claimants will be challenging an HB decision and a CTR decision made on the same day and based on identically worded regulations. There is nothing in the Regulations that obliges the local authority to notify the applicant of the time limit for requesting a review. The Administration and Enforcement Regulations require that the 'procedure' to follow be notified in a demand notice, but without giving specifics of what must be in the notice.<sup>2</sup> Indeed, there is no explicit requirement to send a demand notice on the same day as a decision on a Council Tax reduction is made in order to make the decision effective.

2.2 There will obviously be hard cases, for example where the applicant is in hospital at the time of a decision, and does not even become aware of the decision until after the time limit has expired. At present the regulations simply give a local authority no discretion to review a decision unless a request is made within the time limit.

2.3 We suggest that amending regulations be made to provide for the time limit for requesting both an internal and a further review to be extended. This would allow

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<sup>1</sup> [http://www.scottish.parliament.uk/S4\\_Welfare\\_Reform\\_Committee/General%20Documents/20130611\\_JS-MM\\_Council\\_Tax\\_Reduction\\_Scheme\\_Review\\_Process\\_Part\\_2.pdf](http://www.scottish.parliament.uk/S4_Welfare_Reform_Committee/General%20Documents/20130611_JS-MM_Council_Tax_Reduction_Scheme_Review_Process_Part_2.pdf)

<sup>2</sup> Schedule 2 of SI 1992 No. 1332 (as amended)



late applications to be admitted where they have merit. We also recommend that the decision on whether a late application for either kind of review should be accepted should be for the review panel to make, with a procedure for referring the case to the panel for consideration where the authority is of the view that the late application should not be admitted. Even if this were not done, the insertion of the discretion to extend the time limits would be an important improvement to the provisions.

### 3. Process where the authority does not review its decision after an application

3.1 We are concerned that the applicant cannot apply directly for a further review where the local authority has failed to take any action on the review request already submitted. The Regulations at Reg 90B(1) appear to (at least potentially) provide for a request for a further review to be made direct to the review panel where the authority has reviewed their decision, but not changed it. However, if the authority simply does nothing, the applicant must apply again to the authority, who then have to forward the request to the review panel. In our view, the Regulations should make provision for an application for review to be made directly to the panel where the authority has not reviewed their decision after two months. If the sticking point is that the authority has not dealt with a review request, it seems unduly optimistic to expect that a further review request will be dealt with immediately by that authority. Lodgement of a review request with the panel would allow for the applicant to provide further evidence and a decision to be made even if the authority did not respond to the request for a review. This is of course an extreme example, but in our view it is important to safeguard applicants' access to justice by ensuring that there is a mechanism to involve the panel where the authority does not decide a review request within a reasonable time.

3.2 The request for a further review to the authority in these circumstances gives rise to a further problem. We assume that the intention in preventing the authority from deciding the initial review application once the applicant has requested a further review to be that the authority should not be able to look again at their decision and then require yet another application. However, the drafting of Reg 90B(3)(b) also prevents the authority from changing their decision in the applicant's favour. This will lead to further reviews being carried out in some cases, despite the fact that the authority is happy to change its decision and give the applicant everything that s/he has asked for. There is nothing in the Regulations to clarify what an authority must provide to the review panel if they wish to withdraw their case. Presumably this kind of request would be very likely to be granted if the authority had awarded a full Council Tax reduction in light of further evidence provided by the applicant, but the guidance will need to make clear what is expected of a party wishing to withdraw their case, especially as there is no provision to re-instate a case once withdrawn.

### 4. Lack of a procedure to challenge review panel decisions

4.1 Perhaps the most concerning aspect of the Regulations is their failure to make any provision for setting aside a decision made by a review panel for an error of law. With the best will in the world, there will be situations in which an inquisitorial review panel fails to find sufficient facts or give sufficient reasons for its decision, disregards or gives insufficient weight to relevant evidence, or bases its decision on a false proposition of law. However, the Regulations are silent on what the applicant's remedy is in this kind of situation. Jim McCafferty highlighted this difficulty in his recommendations, stating that in his view there 'consideration... should be given to

constructing a legal process that allows decisions in CTR reviews to be set aside in such, and perhaps other, cases.<sup>3</sup>

4.2 An example of the 'other cases' referred to above is that there is no provision to set aside a review decision where a party has unavoidably been unable to attend a hearing and give evidence, or where documents sent to the panel are not received before a decision has been made. Given the position that there is no onward appeal right, it is absolutely vital that everything possible be done to ensure that applicants have access to justice, and are not denied the chance to put their case by circumstances beyond their control.

4.3 As Mr McCafferty pointed out, the lack of an onward appeal will be a particularly difficult situation if the review panel is constituted of the same judge who is hearing an identically worded HB appeal. As both of these remedies are available in HB cases, it will be possible for the appellant to get the housing benefit tribunal decision set aside and either the decision re-made; or the case remitted for a re-hearing, but this does not prevent the authority from being bound by the decision of the review panel in the CTR case. The regulations as drafted appear not to allow 'natural justice to prevail'. In our view, judicial review of the Regulations in the Court of Session appears a costly and disproportionate way of resolving this kind of situation, and will require applicants to seek legal advice, adding to the Legal Aid bill and preventing expert lay representation.

4.4 If the intention is that the process of review is eventually brought within the proposed unified structure of Scottish Tribunals,<sup>4</sup> then there will be a need for an onward appeal to fit within the two-tier structure. Given the nature of the decisions to be taken it seems obvious that the review is a tribunal as opposed to a court. Indeed the Valuation Appeal Committees which were originally intended to hear appeals against CTR decisions are listed for transfer into the new tribunal structure, subject to the will of Parliament.

## **5. Process of a review and guidance and support for applicants**

5.1 The Regulations are almost silent on the process of a CTR review. The effectiveness of the process, to what extent it ensures access to justice, and how well it meshes with the housing benefit appeals process will all be achieved by procedural guidance more than anything else. One way to help ensure access to justice would be to introduce a regulation similar to the 'overriding objective' of UK tribunals to deal with cases fairly and justly.<sup>5</sup> This has helped to ensure a user-focus and accessibility in reserved tribunals.

5.2 We encourage the Committee to seek as much detail as it can about the content of the guidance, and to consider scrutinising the detailed processes and procedures when these have been finalised. One particular area of concern is the detail of how the provision of further evidence and documents relating to reviews will work. It will be very important that the applicant has a clear idea of how long they have to provide further evidence, particularly where they have not requested an oral hearing of the review application. Similarly, there is nothing to indicate how long an authority will be given to prepare its case and present it to the panel. It would seem sensible

<sup>3</sup> [http://www.scottish.parliament.uk/S4\\_Welfare\\_Reform\\_Committee/General%20Documents/20130611\\_JS-MM\\_Council\\_Tax\\_Reduction\\_Scheme\\_Review\\_Process\\_Part\\_2.pdf](http://www.scottish.parliament.uk/S4_Welfare_Reform_Committee/General%20Documents/20130611_JS-MM_Council_Tax_Reduction_Scheme_Review_Process_Part_2.pdf)

<sup>4</sup> See the Tribunals (Scotland) Bill (SP Bill 30), introduced 8 May 2013

<sup>5</sup> See for example Rule 2 of SI 2008/2685

that the authority and the applicant are given the opportunity to scrutinise the arguments that the other party has put forward in advance of an oral hearing. This will be particularly important where an applicant is unable to get a representative to attend an oral hearing, and so would be very likely to struggle to answer points made for the first time at a hearing itself.

5.3 Regarding representatives more generally, there is no provision giving authorised representatives the same rights as a party to a review. It will be vital that the guidance makes clear that authorities and review panels should send copies of correspondence to authorised representatives where the applicant has requested this.

5.4 Finally, the Regulations make no mention of the production of reports or statistics on the number of reviews. We would encourage the Committee to seek information from officials about their plans. It would also be helpful to clarify the level of reasoning that must be provided by the panel to parties, and to consider publishing anonymised decisions to assist appellants and representatives.

**Jon Shaw**

**Child Poverty Action Group**

## **Welfare Reform Committee**

### **Visit to Dumfries and Galloway Council Pilot Project**

**14 June 2013**

- DWP pilot focussing on 'digital inclusion' and budgeting support.

#### **Digital Inclusion**

- 'Digital inclusion chosen as poor broadband coverage (only 59% of homes with broadband: 25% of area no coverage) and history of assisting people to claim housing benefit and council tax reduction in local offices.
- Digital pilot operating with online housing benefit/council tax reduction form since November 2012. Claimants encouraged to access forms by self-serve initially and then assisted if necessary.
- Objectives were to increase digital uptake from 58% to 68%, with 50% of these self-serve. Also to develop public access points, to reduce staff costs and to understand barriers to claiming online before Universal Credit comes in.
- Results – 47% of forms received were self-serve (v target 50%) but 68% of these were completed digitally ( v 58% for those assisted).
- Early barriers to digital access:
  - no home broadband access
  - quality of broadband access at home
  - computer literacy/confidence
  - public access points not convenient to claimant
  - need to change claimant expectations (and staff?)

#### **Budgeting Support**

- Council have run budgeting courses for those referred from Job Centre Plus.
- Some successes, but have had difficulty encouraging attendance – 5 of 12 courses cancelled – 64 people through course. Also problems of confidentiality, especially in small communities – one to one may be better.

- Biggest technical issue – understanding APR.
- Average age of attendees mid- 30s and high single parent count. NB There is significant level of debt for half of those attending – average debt £25,000.

### **Other issues**

- Three members of the Council's Welfare Reform Sub-Committee attended. They have a particular (and cross-party) problem with the bedroom tax because of geographical factors and lack of one-bedroom properties. They also see one-bedroomed properties as inflexible and will probably build one-beds that can be converted to two beds. Have briefed Secretary of State and written to Lord Freud on the issue.
- They also wished to emphasise the particular needs of the Council area, in terms of rurality and the high subsidy needs of the public transport system, and of lack of employment and low-wage jobs.
- They have seen an 800% increase in claims for Discretionary Housing Payments.
- So far Scottish Welfare Fund demand locally has been higher than anticipated.

**Linda Fabiani MSP**

**24 June 2013**



**SPICe**

The Information Centre

## SPICe Briefing

# Scottish Welfare Fund

5 September 2013

13/54

Heather Lyall & Hannah Johnson

This briefing has been produced to provide the Parliament with information on the Scottish Welfare Fund, which replaced the discretionary elements of the Social Fund from April 2013.



The Scottish Parliament  
Pàrlamaid na h-Alba

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## EXECUTIVE SUMMARY

As part of the *Welfare Reform Act 2012*, the UK Department for Work and Pensions (DWP) abolished the discretionary Social Fund, with effect from 1 April 2013. It consequently transferred the funding spent in Scotland on the discretionary elements of the Fund (Community Care Grants and Crisis Loans for living expenses) to the Scottish Government. This amounted to £23.8 million in 2013-14. The Scottish Government is putting an extra £9.2 million into the new Scottish Welfare Fund (SWF) in 2013-14, giving a total of £33 million.

The SWF is being introduced on an interim basis for around two years. According to the Scottish Government the intention is to learn lessons from the operation of the interim scheme, before putting the new arrangements on a statutory basis. Not all aspects of DWP's Social Fund are being abolished - Sure Start Maternity Grants, Funeral Payments, Cold Weather Payments and Winter Fuel Payments will continue to be dealt with by DWP.

The SWF is designed to be a national scheme run by local authorities and based on guidance from Scottish Ministers. There are two types of discretionary grants in the SWF – Crisis Grants, and Community Care Grants. The objectives of the new scheme are to:

- provide a safety net in a disaster or emergency, when there is an immediate threat to health or safety, and to
- enable independent living or continued independent living, preventing the need for institutional care.

Local authorities have discretion on where in their organisation they process applications and how they link the scheme to existing services. It is intended that local provision of Crisis Grants and Community Care Grants alongside national guidance will allow for a more joined up approach.



## BACKGROUND TO THE SOCIAL FUND

Community care grants and crisis loans for living expenses were two discretionary elements of the Social Fund, which was originally established in 1986 and was intended to provide support to those on low incomes who had needs that could not otherwise be met.

The 'regulated' part of the fund continues to cover payments including the Sure Start Maternity Grant, Funeral Payments, Winter Fuel Payments and Cold Weather Payments, which are paid according to provisions set down in regulations.

The non regulated 'discretionary' element of the fund was cash limited and provided loans and grants. It comprised Crisis Loans, Budgeting Loans, and non-repayable Community Care Grants (CCGs).

**Community care grants** were mainly intended to help vulnerable people live as independently as possible and were awarded to households receiving means-tested benefits. For example, supporting people to re-establish themselves in the community following a stay in residential care or providing assistance in exceptional circumstances, such as relationship breakdown.

**Crisis loans** were intended for people in receipt of benefit, who were unable to meet their immediate short term needs in an emergency or as a consequence of a disaster. They were also awarded to avoid serious damage or risk to the health or safety of the applicant or a member of the family.

## LOCALISATION OF THE SOCIAL FUND

An initial recommendation to devolve the discretionary elements of the Social Fund came from the [Calman Commission](#)<sup>1</sup> (2009) on the grounds that it "fits reasonably neatly with the Scottish Government's responsibilities for wellbeing, social work and tackling homelessness as well as the responsibility that local authorities have for families". The Scottish Government (2009) indicated its support for the devolution of the Social Fund in its [response to the Calman Commission](#).

The UK Government's White Paper '[Universal Credit: welfare that works](#)' (DWP 2010) , set out plans for reform of the Social Fund on the grounds that it has not kept pace with wider welfare reform. It argued that it had resulted in complex administration, rising costs with little evidence of increasing need, was poorly targeted, open to abuse and could be more effectively delivered locally where there is an understanding and link to other support services.

As a result of provisions in the *Welfare Reform Act 2012* (the 2012 Act), Community Care Grants and Crisis Loans were abolished from April 2013. Funding was then made available to the devolved administrations in Scotland and Wales and local authorities in England to provide assistance as they saw fit.

The regulated part of the Fund remains the responsibility of the DWP, which will also continue to deal with Short Term Benefit Advances, Budgeting Loans for those on income related benefits and Budgeting Advances for those on Universal Credit. More information on Short Term Benefit Advances is provided below.

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<sup>1</sup> Recommendation 5.22

## Short Term Benefit Advances

In order to retain protections previously available to benefit claimants of the Social Fund, a 'short-term advance' will replace Interim Payments and Social Fund Crisis Loan alignment payments for all benefits from April 2013.

Short-term advances of benefit will be available to help claimants who have made a new claim, but encounter a period of financial need before receiving their first payment of benefit. Claimants can receive an advance of their future award, which will then be recovered from subsequent payments of the benefit. Short-term advances will be available to claimants of any contributory or income-related benefit, including Universal Credit from 1 April 2013 (DWP 2013). To be eligible for payment the claimant must demonstrate they are in financial need.

The provisions of the 2012 Act extend to England, Wales and Scotland only. However, the Northern Ireland Executive has also consulted on proposals to replace the discretionary elements of the Social Fund. The developments taking place in each country are summarised below.

## WALES

The Welsh Government has awarded a contract to Northgate Public Services to deliver the Discretionary Assistance Fund nationally for two years in partnership with Family Fund Trading and Wrexham Borough Council. The Discretionary Assistance Fund will be entirely grant-based and provide payments or in kind support to "provide urgent assistance where there is an identified need to safeguard health and well-being. The fund can also be accessed to enable or maintain independent living"(Welsh Government, 2013). There are two types of non-repayable grant support:

- **Emergency Assistance Payments** to provide assistance in an emergency or when there is an immediate threat to health or wellbeing. Anyone over the age of 16 can be considered eligible for these payments to help meet expenses due to an emergency or because of a disaster.
- **Individual Assistance Payments** to meet an urgent identified need that enables or supports vulnerable citizens to establish themselves or remain living independently in the community. To be eligible applicants must be:
  - entitled to and be in receipt of income related welfare benefits.
  - due to leave an institution or care home within 6 weeks, that they are likely to be entitled to receive income related welfare benefits on leaving.

For further detail see the [Discretionary Assistance Fund for Wales](#).

## ENGLAND

Different approaches are being used across different English local authorities. Some local authorities created grants that aren't required to be paid back, while some are still using loans with a zero or low interest repayment rate. Some are using card or voucher payments as opposed to cash, while some are using credit unions to administer loans. It generally seems that those who were previously covered by the Social Fund will have access to an alternative. Some examples are contained in Annex A.

## NORTHERN IRELAND

Between January and April 2013, the Northern Ireland Executive [consulted](#) on the provision of discretionary support and to obtain views on the design of the new Discretionary Support provision.

The Department for Social Development gave an update on the scheme to the Committee for Social Development on [23 May 2013](#), when an official said it is intended that this discretionary support provision will help claimants who find themselves in urgent financial need as a result of a crisis or emergency. Payment will be either a grant or loan, although replacement goods are also being considered. Income and eligibility will also be taken into account as part of the assessment.

## THE SCOTTISH WELFARE FUND

### CONSULTATION

The Scottish Government (2011b) published a [consultation paper](#) on the successor arrangements in August 2011. The consultation received 50 responses and the [analysis](#) (Scottish Government 2011c) was published in February 2012. The consultation proposed that successor arrangements should combine the current systems of grants and loans into one grant fund.

The consultation paper also sought views on whether there should be centralised or local delivery of the successor arrangements; whether the eligibility criteria should be modified; whether goods rather than cash should be provided; and, whether other support such as budgeting support should be provided and how appeals should be organised.

Those responding to the consultation generally welcomed the devolution of the community care grants and crisis loans for living expenses as an opportunity for the Scottish Government to remedy the deficiencies and complexities of the existing system and to secure better integration with other aspects of welfare and public policy in Scotland (Scottish Government 2011c). The main findings were:

- Respondents gave a qualified endorsement to the proposal for a single grant fund.
- Overall, where a preference was expressed, it was for local delivery, with this view particularly expressed by local authorities. Preference for central delivery came almost entirely from third sector organisations.
- Respondents felt a blend of delivery channels would best support a client-focused approach, able to meet a variety of needs, by providing a tailored service to assist the most vulnerable, to promote accessibility of the service and give choice.
- Responses indicated that eligibility and prioritisation should be based on individual need and the immediacy and extent of any threat to health and wellbeing, rather than on particular groups or events.
- Respondents felt that eligibility definitions should be provided as guidance rather than being prescriptive.

- The provision of both grants and goods was well received and other non-compulsory support, such as budgeting advice, was endorsed.
- The successor arrangements were seen to offer an opportunity to establish an effective appeals system as well as reducing the volume of appeals.

## INTERIM SCHEME

COSLA Leaders and the Scottish Government agreed in February 2012 that the successor arrangements for the discretionary Social Fund would be delivered by local authorities on an interim basis from April 2013. In October 2012, Scottish Government and COSLA published the [formalised partnership agreement](#). As part of this process they also created a Design and Implementation Group (DIG) to oversee the implementation of the new arrangements. The Group was made up of Scottish Government and local authority representation. The agreement states that:

“The interim solution will offer some breathing space to determine what kind of service could be delivered in the longer term to best meet the needs of the most vulnerable. It is our joint aim within this context, to improve services through joined up working, create innovative changes to service delivery mechanisms and create accessibility improvements through the duration of the interim arrangements.”

In addition, an information event was held in October 2012 and a local authority practitioners event in January 2013.

## HOW DOES THE FUND WORK?

The Scottish Government set out the objectives of the new scheme as follows:

- To provide a safety net in a disaster or emergency, when there is an immediate threat to health or safety.
- To enable independent living or continued independent living, preventing the need for institutional care.

There are two types of grant that will help to meet these objectives – Crisis Grants, and Community Care Grants.

**Crisis Grants** aim to help people, typically on benefits, who are in crisis because of a disaster, for example, a fire or a flood. Or in an emergency for example needing to travel to visit a sick child or when money has been stolen. Previously this took the form of a crisis loan which needed to be paid back to the DWP.

**Community Care Grants** aim to help people leaving facilities such as hospital, prison or a residential care home to re-establish themselves in the community. Alternatively, they help people on benefits who may have to go into care unless they get some support to stay at home. A Community Care Grant can also help families facing exceptional pressures, with one-off items, like a cooker or a washing machine.

The Scottish Government (2013d) has [issued detailed guidance](#) on how the fund should be operated and a single application form to offer consistency across the country. The Scottish Government and COSLA state that a localised approach should ensure a more client-focused or person-centred approach as the authorities involved will be able to meet clients face to face and

link clients' needs to locally available services and support. This discretion to tailor services will mean that delivery may vary from area to area.

It is expected that the guidance will be amended before October 2013 to allow people receiving universal credit to be eligible to apply to the fund. As universal credit will be paid to people in or out of work there is likely to be an extra requirement that applicants have income below a certain level to qualify.

The Scottish Welfare Fund will also offer a mixture of grants and goods; with the goods in some cases recycled. [\*The Social Fund: Customer experiences and perspectives: Qualitative research with Jobcentre Plus customers\*](#) (2010) found that

“customers were typically in agreement with the concept of the direct provision of reduced priced new goods instead of cash through the Social Fund as long as they retained an element of choice...Customers accepted the principle of the direct provision of second-hand furniture and white goods instead of cash through the Social Fund on the basis that, if someone was in need then they should accept second-hand if that was what was on offer.” (DWP, 2010)

There are some exclusions to the scheme, which are outlined in the [Scottish Government Guidance](#) and also in Annexe B.

## Who is eligible to apply?

The following groups will be likely to access the fund (the list is not exhaustive):

- disabled people
- lone parents
- unemployed people
- older people
- care leavers
- homeless people
- ex-offenders
- carers.

[Guidance](#) states that local authorities should assess the pattern of demand against budget profiles on a month to month basis throughout the financial year and make a monthly decision accordingly on whether it is possible to make awards for high priority applications only, high and medium or high, medium and low applications.

There are four distinct stages in the decision making process that determine whether someone will receive a payment. Stage one is an initial eligibility check, including whether the person is in receipt of certain qualifying benefits. Stage two verifies whether the person meets the Fund's qualifying criteria. Stage three assesses the priority need of the applicant. Stage four checks what level of priority applicant the local authority is able to pay out to that month.

Please see further information on likely customer profiles on page 13.

## HOW DOES THE SCOTTISH WELFARE FUND DIFFER FROM THE SOCIAL FUND?

Table 1: The main changes in the way that the Scottish Welfare Fund will operate in comparison to the previous discretionary elements of the Social Fund

	<b>Social Fund</b>	<b>Scottish Welfare Fund</b>
<b>Funding</b>	Budgets are managed over two regional areas in Scotland, based largely on previous patterns of demand	Ring fenced funding will be distributed to the 32 local authorities according to an agreed formula.
<b>Delivery</b>	Centralised call centre	National guidance with local delivery tailored to local need and integrated with existing services.
<b>Types of award</b>	Crisis loans to be repaid	Crisis grants will not need to be repaid. The offer of in kind support will also be available.
<b>Eligibility</b>	Crisis loans open to everyone	Crisis grants available to those on qualifying benefits with the discretion for local authorities to make exceptions.
<b>Qualifying criteria</b>	Specific provision for people to apply for costs to travel to visit someone who is ill, attend a funeral, visit a child being looked after while waiting for a court decision.	Travel costs are not identified as a separate criterion, though they may be claimed in connection with a crisis or a community care need
<b>Qualifying criteria</b>	Families without children may make claims under the criterion of easing “exceptional pressure”.	Re-focuses this criterion on families who face exceptional pressure and need support to provide a secure environment for their children.
<b>Qualifying criteria</b>	An application can be made 6 weeks in advance of leaving an institution.	An application can be made 8 weeks in advance of leaving an institution.
<b>Excluded expenses</b>	As set out in DWP guidance.	Additional items added include; funeral costs; items likely to become an on-going need; travel expenses with the exception of one off expenses (see guidance); maternity expenses where a mother has already received a sure start maternity grant; and expenses to meet the needs of people that are excluded from receiving public funds.

## FUNDING

The funding for the new scheme, which has been transferred to Scottish Ministers from the UK Government, will come in three parts—set-up costs, on-going administrative costs and programme spend. In total for 2013 -14, the DWP transferred £23.8 million in programme spend to the Scottish Government. The Scottish Government [decided](#) to contribute an extra £9.2 million, giving a total of £33 million.

The Scottish Government and COSLA have agreed that funding allocated to the interim scheme will be ring-fenced and administered directly by local authorities. Allocations were made according to a funding formula agreed with the Joint Settlement and Distribution Group.

## LOCAL AUTHORITY BUDGET ALLOCATIONS FOR 2013/14

Table 2: Budget allocations for 2013-2014

Local Authority	Community Care Grants £s	Crisis Grants £s	Total £s
Aberdeen City	540,786	359,055	899,841
Aberdeenshire	301,674	163,061	464,735
Angus	273,205	145,866	419,071
Argyll & Bute	263,907	108,853	372,76
Clackmannanshire	230,847	129,545	360,392
Dumfries & Galloway	430,012	193,225	623,237
Dundee City	986,18	350,457	1336,637
East Ayrshire	650,528	274,974	925,502
East Dunbartonshire	242,097	94,718	336,815
East Lothian	264,481	125,757	390,238
East Renfrewshire	182,29	75,629	257,919
Edinburgh, City of	1429,737	757,891	2187,628
Eilean Siar	36,16	11,803	47,963
Falkirk	634,342	293,48	927,822



Fife	1219,553	640,44	1859,993
Glasgow City	5756,371	1964,745	7721,116
Highland	555,135	245,538	800,673
Inverclyde	453,774	278,763	732,537
Midlothian	253,461	131,877	385,338
Moray	285,259	101,858	387,117
North Ayrshire	705,972	362,552	1068,524
North Lanarkshire	2125,263	830,751	2956,014
Orkney Islands	47,868	8,452	56,32
Perth & Kinross	420,828	172,096	592,924
Renfrewshire	693,919	454,938	1148,857
Scottish Borders	283,996	122,551	406,547
Shetland Islands	42,588	16,904	59,492
South Ayrshire	533,669	179,236	712,905
South Lanarkshire	1539,479	604,302	2143,781
Stirling	379,733	136,831	516,564
West Dunbartonshire	562,482	267,105	829,587
West Lothian	674,404	391,987	1066,391
Scotland Total	23,000,000	9,995,000	32,995,000

**Source:** Scottish Government (2013f)

Local Authorities can decide to augment the Scottish Welfare Fund budgets should they choose to do so. However, in doing so they must establish a further budget heading(s) as there will be a need to monitor and report on the ring fenced monies separately.



The table below shows the indicative funding the DWP has allocated to English local authorities and to the Scottish Government and Welsh Government, up to 2014-15.

**Table 3: Indicative funding for local provision to replace the discretionary Social Funding, 2012-13 to 2014-15**

		England	Scotland	Wales	Great Britain
<b>2012-13</b>	Set-up funding	£1.4 m	£2.0m	£0.1 m	£3.5 m
<b>2013-14</b>	Programme funding	£144.2 m	£23.8 m	£10.2 m	£178.2 m
	Administrative funding	£30.5 m	£5.0 m	£2.2 m	£37.7 m
	<b>Total funding</b>	<b>£174.7 m</b>	<b>£28.8 m</b>	<b>£12.4 m</b>	<b>£215.9 m</b>
<b>2014-15</b>	Programme funding	£144.2 m	£23.8 m	£10.2 m	£178.2 m
	Administrative funding	£27.9 m	£4.6 m	£2.0 m	£34.5 m
	<b>Total funding</b>	<b>£172.1 m</b>	<b>£28.4 m</b>	<b>£12.2 m</b>	<b>£212.7 m</b>

**Source:** House of Commons Library, based on DWP, Settlement funding allocation figures: Programme (AME), Administration (DEL) and Set-up funding allocation by country and local authority, August 2012.  
<http://www.dwp.gov.uk/docs/social-fund-settlement-funding-allocation.pdf>. Figures rounded to nearest £0.1million.  
 (Scottish figure for 2012-13 set up funding updated based on information received from the Scottish Government. )

The Scottish Government (2013a) states in the [equality impact assessment](#) (EQIA) that, due to the costs associated with recovery, it will not be possible to offer loans. As set out above, the successor arrangements will award crisis grants or in kind support instead. A knock-on impact of this decision is that, unlike the previous scheme, there will be no loan repayments that can be recycled to make further payments. Therefore, the overall pot of money will reduce. The Scottish Government hope to cover some of this loss by providing goods and in-kind support.

The Scottish Government also considered in its decision making the impact on clients of repaying loans. It explains in its EQIA that people on low incomes can get into difficulties repaying even small amounts. Therefore, grants are thought to help to reduce financial pressure and stress. The guidance will also encourage local authorities to make connections with locally available sources of affordable credit.

## Local Authority spending update

On the 12 August 2013 the Scottish Government [issued a press release](#) (2013h) stating that over 20,000 people have received grants amounting to over £3.5 million since April 2013. This makes up around half of the funding that was profiled to be available during this time period. The Scottish Government suggested that vulnerable people may not yet be fully aware of the financial help available to them. However, Scottish Labour were [critical](#) of the Fund's current performance and poverty campaigners were [reported](#) as saying that council staff were trying too hard to save money by signposting applicants towards food banks and other charities. Scottish Government guidance states that any in kind support, such as food or food vouchers, should be

deducted from the Scottish Welfare Fund budget so that additional pressure is not placed on third sector food banks.

## **IMPACT ASSESSMENT**

The Scottish Government states that the Scottish Welfare Fund will contribute to the following outcomes:

- Tackling the significant inequalities in Scottish society.
- Improving the life chances for children, young people and families at risk.
- People are able to maintain their independence as they get older and are able to access appropriate support when they need it.
- Public services are high quality, continually improving, efficient and responsive to local people's needs.

The EQIA for the scheme states that:

“The abolition of the discretionary Social Fund, at the same time as wider welfare reform is resulting in multiple changes to benefits, has potential to increase this confusion, particularly in the short term. Effective communication will be required, both ongoing and in the transition period to make sure that the changes do not compound the problem. Local Authority service design will also play a part, for example in helping people understand why they have been refused applications and where else they may go for help.”

## **PROFILE OF CUSTOMERS**

The EQIA notes that the profiles of customers who access Community Care Grants and Crisis Loans for living expenses differ. Users of Crisis Loans are primarily Jobseekers Allowance (JSA) claimants under the age of 35 while recipients of Community Care Grants are more likely to be lone parents and also more likely to have a disability.

Under the previous rules for considering applications, when a Social Fund decision maker considers an application for a Community Care Grant, they use criteria which are favourable to some groups, for example, the presence of a disabled child in the household.

The EQIA states that pensioners, disabled people and lone parents are less likely to be refused a Community Care Grant than other groups. The EQIA also highlights that disabled people are most likely to be affected by the changes. It states that:

“The data show that disabled people are slightly more likely to be successful in their applications than non-disabled people. And, they are more likely to be poorer, with less savings and coping less well financially. Disabled people are more likely to have access issues and specific needs in terms of the awards made e.g. re-used goods may not be suitable. The change in the definition of “exceptional pressure” may disadvantage disabled people in that they will no longer be eligible if they do not have dependent children. The change to a broader range of access options may have a positive impact if Local Authorities are able to provide appropriate support. The change toward integration with other local services may also be positive.” (Scottish Government, EQIA, 2013)

## ANNEXE A: EXAMPLES OF SCHEMES LOCALISED TO ENGLISH LOCAL AUTHORITIES

**Surrey County Council** – [Surrey Local Assistance Scheme](#) – no cash payments, applicants will either be supplied with a pre-paid card or a supplier will be paid directly.

**Birmingham City Council** – [Birmingham Local Welfare Provision](#) – crisis grants for food or essential items will be awarded with pre-paid cards to be used in ASDA.

**Sheffield City Council** – [Local Assistance Scheme](#) – provides for local assistance grants, and local assistance loans. Grant payment is made to an applicant's bank account or via a smartcard if they do not have a bank account. Loans (interest free) will be administered by Sheffield Credit Union and applicants will need to become members to receive the loan.

**Manchester City Council** – [Welfare Provision Scheme](#) – a system of grants and loans (2% interest per month) will be available to Manchester residents. There will be no cash awards for furniture or white goods, and loans will be administered by one of two credit unions. Loans will be paid into a credit union account or a credit union pre-payment card.

**Middlesbrough Council** – [Community Support Scheme](#) – no cash payments, assistance will be given via vouchers and/or access to items and products. It will provide Crisis Awards and Community Support Awards.

**Liverpool City Council** – [Liverpool Citizens Support Scheme](#) – will take the form of a Home Needs Award in the form of essential furniture and domestic appliances provided by a local supplier, and Urgent Needs Award provided via vouchers. Both will be in grant form, although where repeat applications occur, the scheme will allow the option to offer an award in the form of a loan.

## ANNEXE B: EXCLUSIONS FROM THE SCOTTISH WELFARE FUND

The [Scottish Government website](#) (2013e) contains information on the items excluded from Scottish Welfare Fund payments. Please see the list below:

1. a need which occurs outside the United Kingdom
2. an educational or training need including: clothing and tools, distinctive school uniform or sports clothes for use at school, equipment to be used at school, travelling expenses to or from school, school meals taken during school holidays by children who are entitled to free school meals
3. expenses in connection with court (legal proceedings) such as legal fees, court fees, fines, costs, damages, subsistence or travelling expenses
4. removal or storage charges if the person is being re-housed following a compulsory purchase order, a redevelopment or closing order or a compulsory exchange of tenancies.
5. a television or a radio or a licence, aerial or rental costs, costs of purchasing, renting or installing a telephone (unless this is for the purpose of a personal alarm), mobile phones and any call charges
6. repair to Local Authority property or the property of social landlords who maintain property on behalf of the tenant.
7. rent in advance, which can be provided by a budgeting loan or discretionary housing payments.
8. debts, debt interest, debts to government departments or Local Authority tax, Scottish Water water and waste charges, arrears of Local Authority tax or community water charges
9. any expense which the Local Authority or other organisation has a statutory duty to meet, for example regular costs for care or housing
10. a medical, surgical, optical, aural or dental item or service (note that needs under all of these headings can be provided free of charge by the National Health Service, if are getting Income Support, income-based Jobseeker's Allowance, Employment and Support Allowance (income-related), or Pension Credit). Medical expenses, treatments, items and medications.
11. domestic assistance and respite care
12. work related expenses
13. investments
14. holidays
15. ongoing needs which are, or are likely to become, a feature of expenditure.
16. travelling expenses, with the exception of one-off expenses relating directly to the qualifying criteria, for example travelling expenses to help someone move to a new home where that move is essential to their re-integration in the community.
17. maternity expenses covered by a Sure Start Maternity Grant – see regulated Social Fund.
18. any costs related to a person's funeral – see regulated Social Fund.
19. expenses to meet the needs of people who have no recourse to public funds.

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